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June 14, 2012

**Via Electronic Filing**

The Honorable David E. Peebles  
U.S. Magistrate Judge  
U.S. District Court for the Northern District of New York  
Federal Building and U.S. Courthouse  
P.O. Box 7345  
Syracuse, NY 13261-7345

Re: Car-Freshner Corporation and Julius Sämann Ltd. v. Getty Images, Inc. and Getty Images (US), Inc., No. 7:09-cv-01252 (GTS/DEP)

Dear Judge Peebles:

On Monday, June 11, 2012, counsel for Plaintiffs informed Defendants' counsel of our intent to file a motion for leave to file a Second Amended Complaint, and requested Defendants' consent thereto. We have also requested their consent to file the motion under seal due to citing information they designated as confidential pursuant to the Protective Order. On Tuesday, June 12, 2012, counsel for Plaintiffs called Defendants' counsel to follow up. Defendants' counsel requested a copy of the proposed amended complaint for consideration, and a copy was produced to them the same day.

During a telephone conference yesterday, counsel for Defendants consented to the joinder of Plaintiffs' proposed new defendants, iStockphoto LP and Getty Images International. Since Defendants consented to joinder of the new defendants, Plaintiffs wish to inquire whether they need to fully brief to the Court the reasons for adding the proposed new defendants. If so, then Plaintiffs would need to file documents and excerpts from Defendants' 30(b)(6) deposition under seal in order to support their arguments. Should the Court find such a detailed discussion unnecessary, then Plaintiffs could provide general factual background on the proposed Defendants' without delving into confidential information disclosed by Defendants.

Further, during the telephone conference, Defendants' counsel could not consent at this time to the motion to add Plaintiffs' proposed new claims. Defendants' counsel indicated he would get back to Plaintiffs by some time today.

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Accordingly, in light of the upcoming deadline of Friday, June 15 for amendments to the pleadings, and cognizant of our need to confer with Your Honor pursuant to L.R. 7.1(b)(2)<sup>1</sup>, we respectfully request a conference with the Court to discuss these issues in the event Defendants do not consent to the proposed new claims.

Respectfully yours,



Michelle Mancino Marsh

cc: James E. Rosenfeld, Esq.  
Christopher J. Robinson, Esq.  
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<sup>1</sup> We are aware that some courts in this Circuit view motions for leave to amend complaints as dispositive motions. That being the case, a conference with the Court would not be required under Local Rules. However, as there appears to be a split in the district courts and this Court has yet to issue a precedential decision on this issue, out of an abundance of caution, we are requesting this conference. Should the Court deem this motion to be a dispositive motion, we remain available to discuss the merits at the Court's convenience.